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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,189	03/26/2004	Mark Grayson	062891.1216	8023
5073	7590	09/04/2007	EXAMINER	
BAKER BOTTS L.L.P.			LY, ANH VU H	
2001 ROSS AVENUE			ART UNIT	
SUITE 600			PAPER NUMBER	
DALLAS, TX 75201-2980			2616	
			NOTIFICATION DATE	DELIVERY MODE
			09/04/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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we

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/973,203	TATMAN, LANCE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nguyen Ngo	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Labovitz (US 2005/0018602), hereinafter referred to as Labovitz.

**Regarding claim 1, 2** Labovitz discloses a method of recording Border Gateway

Protocol (BGP) messages from BGP peers comprising (information that is stored in memory of the respective nodes and that the common routing protocol which is used by routing devices include BGP, page 3 [0029] and page 6 [0058]):

establishing a passive link with BGP peers (network topology, page 1 [0003]),

time-stamping and recording all BGP messages from BGP peers upon message arrival (system 200 includes a data plane collector 201 which collects information about data forwarded by one or more network forwarding nodes and that the information is associated with a timestamp, page 3 [0030] and page 4 [0035]), and

maintaining links with BGP peers across selected BGP errors (state information that may be collected and stored includes the following BGP state information – peering session errors, page 6 [0060]-[0067]). Labovitz further discloses that if there is a

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change in the control plane or data plane, an alert be generated and sent to a network administrator (page 5 [0043]) so that appropriate actions (such as maintain link) may be taken (page 3 [0025])

**Regarding claim 3,** Labovitz discloses the method of Claim 1 where outgoing BGP messages are time stamped and recorded (page 7 [0101]).

**Regarding claim 4, 5,** Labovitz discloses an improved Border Gateway Protocol (BGP) Route Recorder (BRR) for recording BGP messages from BGP peers (control plane collector, page 5 [0056]-[0068] and figure 5) comprising:

means for establishing passive links with BGP peers, means for receiving BGP messages from BGP peers (network topology, page 1 [0003]),

means for time-stamping and recording all BGP messages from BGP peers upon message arrival (system 200 includes a data plane collector 201 which collects information about data forwarded by one or more network forwarding nodes and that the information is associated with a timestamp, page 3 [0030] and page 4 [0035]), and

means for maintaining links with BGP peers across selected BGP errors (state information that may be collected and stored includes the following BGP state information – peering session errors, page 6 [0060]-[0067]). Labovitz further discloses that if there is a change in the control plane or data plane, an alert be generated and sent to a network administrator (page 5 [0043]) so that appropriate actions (such as maintain link) may be taken (page 3 [0025]).

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Scudder et al. (US 2005/0177634), Technique For Graceful Shutdown Of Routing Protocol In A Network.

b) Visser et al. (US 7236453), High Available Method For Border Gateway Protocol Version 4.

c) Nalawade et al. (US 2006/0171404), Network Routing Apparatus That Performs Soft Graceful Restart.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nguyen Ngo whose telephone number is (571) 272-8398. The examiner can normally be reached on Monday-Friday 7am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on (571) 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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**FIRMIN BACKER**  
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